

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

CAROLYN S. COBB, as Guardian of \*  
the Person and Property of Jake  
Lee Cobb, \*

Plaintiff \*

vs. \*

CASE NO. 5:06-CV-06 (CDL)

RODNEY PAUL DAWSON, JR.; JOHN \*  
DAWSON, JR., as Executor of the \*  
Estate of John W. Dawson, Sr.; \*  
and JOHN W. DAWSON, JR., GARY \*  
ARNOLD DAWSON and RODNEY DAWSON, \*  
in Their Individual Capacities \*  
d/b/a DAWSON BROTHERS FARMS, \*  
a General Partnership, \*

Defendants \*

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O R D E R

Plaintiff has filed a Motion for Partial Summary Judgment (Doc. 21) seeking to have this Court rule as a matter of law that Defendant Rodney Paul Dawson, Jr. was negligent based upon Defendant's deposition testimony. In response to Plaintiff's motion, Defendant filed an affidavit explaining his deposition testimony. The Court finds that this affidavit is not a sham affidavit and should be considered by the Court in ruling upon Plaintiff's motion. Having reviewed the affidavit and the deposition testimony together, the Court finds that genuine issues of material fact exist to be tried. Accordingly, Plaintiff's Motion for Partial Summary Judgment (Doc. 21) is denied.

IT IS SO ORDERED, this 11th day of October, 2006.

S/Clay D. Land

CLAY D. LAND  
UNITED STATES DISTRICT JUDGE